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APPLICATION NO:	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,876	02/10/2000	Eddie D. Sowle	163.1173USII	4490

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EXAMINER
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YU, GINA C

ART UNIT	PAPER NUMBER
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1619

DATE MAILED: 11/21/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/501,876

Applicant(s)

SOWLE ET AL.

Examiner

Gina C. Yu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

Receipt is acknowledged of Amendment filed on August 29, 2001. Claims 1-51 are pending.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-51 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims are rejected because the specification, while being enabling for making and using chloride in a sanitizing composition, does not reasonably provide a support for a composition with "halogen". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with this claim without undue experimentation.

The factors to determine whether there is sufficient evidence to support a determination that a disclosure does not satisfy the enablement requirement, include, but not limited to, the breadth of the claims, the nature of the invention, the level of predictability in the art, etc. See MPEP 2164.01(a). In the instant case, the specification does not provide guidance as to any specific halogen other than chloride to be utilized in order to prove the efficacy of the presently claimed compositions and

methods. The specification fails to enable the term "halogen", therefore undue experimentation is necessary to demonstrate the efficacy of the presently claimed compositions and method for sanitizing hard surfaces.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 6, 31, and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 6 recite the limitation "the solid chlorine" in claim 1. There is insufficient antecedent basis for this limitation in the claims.

Claim 31 recites the limitation "the chlorine source" in claim 30. There is insufficient antecedent basis for this limitation in the claims.

The phrases "a first inorganic layer" and "a second organic layer" in claim 44 are confusing because it is not clear whether multiple inorganic and organic layers are present in the encapsulation. The metes and bounds of the scope of the claim is not clear.

### ***Claim Objections***

Claim 28 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim recites the

composition wherein the amount of dye is adjusted to change its color during “a useful period of time during which the sanitizer solution can be used for its intended purposes.” The scope of this limitation is broader than the limitation of instant claim 19 (b), which recites specific period of time which the dye remains stable, and thus fails to further limit the subject matter of the base claim.

Claim 22 is objected to because the term “builder salt” is inconsistent with the term “builder” used in claim 17.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-51 are rejected under 35 U.S.C. 103(a) as obvious over Gladfelter et al. (U.S. 5,358,653) (“Gladfelter”) in view of Kitko (U.S. 4,248,827).

Gladfelter teaches chlorinated solid rinse aid useful in warewashing. See abstract. Examples disclose the preparation of encapsulated active chlorine compound comprising sodium dichloroisocyanurate dihydrate and sodium sulfate. The encapsulated chlorine source of the invention comprises the core of active chlorine with an inorganic intermediate coating and an outer coating. The reference teaches the method of using the invention, which include introducing the aid into potable water in rinse cycles at relatively neutral pH, wherein the concentration of the active chlorine is about 3 to 50 ppm. See col. 2, lines 29 – 49. The dimensions and shapes of the solid composition is disclosed in col. 3, lines 37 – 57. The reference teaches that a dye may

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be optionally added such that the color of the composition does not change upon the activation of chlorine releasing agents, and lacks the teaching of the changing or depletion of color over a period of time used to disinfect a substrate.

Kitko teaches method for sanitizing toilets comprising hypochlorite agent and dye agents are dispensed into the toilet flush water, wherein the dye is oxidized from a colored state to a colorless state within 5 seconds to 10 minutes after contact with the hypochlorite. See col. 1, line 57 – col. 2, line 20. Sodium dichloroisocyanurate dihydrate of instant claim 3 is among the sanitizing hypochlorite agents for the invention. See col. 2, lines 21 – 49. The reference teaches that the dye should be present in a ratio of available chlorine:dye of from 2:1 to about 150:1, preferably from about 5:1 to 25:1. The reference also illustrate the testing of dyes for the time interval to change its color to colorless stage at catalyzed and uncatalyzed chlorine level of 5 ppm, at pH 6 and 9. See col. 3, line 60 – col. 4, line 58. Examiner views that given this information, one of ordinary skill in the art would have discovered, by routine experimentations, the optimum ratio of chlorine to dye required to produce the color-to-colorless signal within a desired time frame.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of Gladfelter by incorporating the oxidizable dyes as suggested by Kitko because of the expectation of successfully producing sanitizing composition which, upon the oxidization of the dyes upon the contact with hypochlorite changes the color of the solution and provides users the visual signals of the activity of the sanitizing agents.

***R sponse to Arguments***

Applicant's arguments regarding claims 1-51 have been fully considered but they are moot in view of the new ground of rejections.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Perlman, (U.S. 4980215), teaching p process of timed exposure to substantially constant concentration of hypochlorite disinfectant, which may be visualized by including pH-color indicators in the solution.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

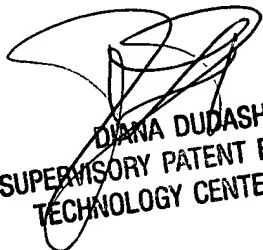
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-305-3593.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu  
Patent Examiner  
November 15, 2001



DIANA DUDASH  
SUPERVISORY PATENT EXAMINER  
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